

By: MontfordS.J.R. No. 10SENATE
A JOINT RESOLUTION

1 proposing a constitutional amendment granting the supreme court
 2 jurisdiction to answer questions of state law certified from
 3 federal courts.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article V, of the Texas Constitution is amended
 6 by adding Section 3-c to read as follows:

7 ^{kn} "Sec 3-c. (a) The supreme court has jurisdiction to answer
 8 questions of state law certified from a federal court.

9 "(b) The supreme court shall promulgate rules of procedure
 10 relating to the review of those questions. "

11 SECTION 2. The following temporary provision is added to the
 12 Texas Constitution:

13 "TEMPORARY PROVISION. (a) This temporary provision applies
 14 to the constitutional amendment proposed by the 69th Legislature,
 15 Regular Session, 1985, granting the supreme court jurisdiction to
 16 answer questions of state law certified from a federal court.

17 "(b) The constitutional amendment takes effect January 1,
 18 1986.

19 "(c) This temporary provision takes effect on the adoption of
 20 the amendment by the voters and expires January 2, 1986. "

21 SECTION 3. This proposed constitutional amendment shall be
 22 submitted to the voters at an election to be held November 5, 1985.
 23 The ballot shall be printed to provide for voting for or against
 24 the proposition: "The constitutional amendment granting the

S. J. R. No. 10

- 1 Supreme Court of Texas jurisdiction to answer questions of state
- 2 law certified from a federal court."

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 4, 1985

Honorable Oscar H. Mauzy, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 10
By: Montford

Sir:

In response to your request for a Fiscal Note on Senate Joint Resolution No. 10 (proposing a constitutional amendment granting the supreme court jurisdiction to answer questions of state law certified from federal courts) this office has determined the following:

The resolution would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the resolution.

The cost of publication to the State of the resolution is \$48,100.

No fiscal implication to units of local government is anticipated.


Jim Oliver
Director

Source: Secretary of State; Office of Court Administration;
LBB Staff: JO, JH, BL

By: Montford S.J.R. No. 10
(In the Senate - Filed January 22, 1985; January 23, 1985,
read first time and referred to Committee on Jurisprudence;
February 6, 1985, reported adversely, with favorable Committee
Substitute; February 6, 1985, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.J.R. No. 10 By: Montford

SENATE JOINT RESOLUTION

proposing a constitutional amendment granting the supreme court
jurisdiction to answer questions of state law certified from
federal appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article V, of the Texas Constitution is amended
by adding Section 3-c to read as follows:

"Section 3-c. (a) The supreme court has jurisdiction to
answer questions of state law certified from a federal appellate
court.

"(b) The supreme court shall promulgate rules of procedure
relating to the review of those questions."

SECTION 2. The following temporary provision is added to the
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to the constitutional amendment proposed by the 69th Legislature,
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court.

"(b) The constitutional amendment takes effect January 1,
1986.

"(c) This temporary provision takes effect on the adoption
of the amendment by the voters and expires January 2, 1986."

SECTION 3. This proposed constitutional amendment shall be
submitted to the voters at an election to be held November 5, 1985.
The ballot shall be printed to provide for voting for or against
the proposition: "The constitutional amendment granting the
Supreme Court of Texas jurisdiction to answer questions of state
law certified from a federal appellate court."

* * * * *

Austin, Texas
February 6, 1985

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence to which was referred S.J.R.
No. 10, have had the same under consideration, and I am instructed
to report it back to the Senate with the recommendation that it do
not pass, but that the Committee Substitute adopted in lieu thereof
do pass and be printed.

Mauzy, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 4, 1985

Honorable Oscar H. Mauzy, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 10
By: Montford

Sir:

In response to your request for a Fiscal Note on Senate Joint Resolution No. 10 (proposing a constitutional amendment granting the supreme court jurisdiction to answer questions of state law certified from federal courts) this office has determined the following:

The resolution would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the resolution.

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Jim Oliver
Director

Source: Secretary of State; Office of Court Administration;
LBB Staff: JO, JH, BL

Feb. 18 1985 Engrossed

Leroy Spaw
Engrossing Clerk

certify that the attached is a true and correct
copy of SJR. 10, which was

received from the Senate on FEB 19 1985 and

referred to the Committee on Judiciary

Robert M. ...
Chief Clerk of the House

By: Montford

S.J.R. No. 10

SENATE JOINT RESOLUTION

proposing a constitutional amendment granting the supreme court jurisdiction to answer questions of state law certified from federal appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article V, of the Texas Constitution is amended by adding Section 3-c to read as follows:

"Section 3-c. (a) The supreme court has jurisdiction to answer questions of state law certified from a federal appellate court.

"(b) The supreme court shall promulgate rules of procedure relating to the review of those questions."

SECTION 2. The following temporary provision is added to the Texas Constitution:

"TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 69th Legislature, Regular Session, 1985, granting the supreme court jurisdiction to answer questions of state law certified from a federal appellate court.

"(b) The constitutional amendment takes effect January 1, 1986.

"(c) This temporary provision takes effect on the adoption of the amendment by the voters and expires January 2, 1986."

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1985.

S.J.R. No. 10

1 The ballot shall be printed to provide for voting for or against
2 the proposition: "The constitutional amendment granting the
3 Supreme Court of Texas jurisdiction to answer questions of state
4 law certified from a federal appellate court."

HOUSE COMMITTEE REPORT

1st. Printing

By Montford
(P. Hill of Dallas)
Substitute the following for S.J.R. No. 10:

S.J.R. No. 10

By Toomey

C.S.S.J.R. No. 10

A JOINT RESOLUTION

proposing a constitutional amendment granting the supreme court and the court of criminal appeals jurisdiction to answer questions of state law certified from federal appellate courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article V, of the Texas Constitution is amended by adding Section 3-c to read as follows:

"Section 3-c. (a) The supreme court and the court of criminal appeals have jurisdiction to answer questions of state law certified from a federal appellate court.

"(b) The supreme court and the court of criminal appeals shall promulgate rules of procedure relating to the review of those questions."

SECTION 2. The following temporary provision is added to the Texas Constitution:

"TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 69th Legislature, Regular Session, 1985, granting the supreme court and the court of criminal appeals jurisdiction to answer questions of state law certified from a federal appellate court.

"(b) The constitutional amendment takes effect January 1, 1986.

"(c) This temporary provision takes effect on the adoption of the amendment by the voters and expires January 2, 1986."

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C.S.S.J.R. No. 10

1 submitted to the voters at an election to be held November 5, 1985.
2 The ballot shall be printed to provide for voting for or against
3 the proposition: "The constitutional amendment granting the
4 Supreme Court of Texas and the Court of Criminal Appeals of Texas
5 jurisdiction to answer questions of state law certified from a
6 federal appellate court."

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

April 9, 1985
(date)

Sir:

We, your COMMITTEE ON JUDICIARY, to whom was referred S.J.R. 10 have had the same under consideration and beg to report back with the recommendation that it (measure)

- () do pass, without amendment.
() do pass, with amendment(s).
(☒) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (☒ yes () no) An actuarial analysis was requested. () yes (☒ no)

An author's fiscal statement was requested. () yes (☒ no)

The Committee recommends that this measure be placed on the (Local) or (Consent) Calendar.

This measure (☒ proposes a constitutional amendment ~~new law~~ (☒ amends existing law.)

House Sponsor of Senate Measure Patricia Hill

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Bush, Ch.	<input checked="" type="checkbox"/>			
Hury, V.C.	<input checked="" type="checkbox"/>			
Toomey, C.B.O.	<input checked="" type="checkbox"/>			
Adkisson	<input checked="" type="checkbox"/>			
Dutton	<input checked="" type="checkbox"/>			
Hackney				<input checked="" type="checkbox"/>
Hilbert	<input checked="" type="checkbox"/>			
Perez	<input checked="" type="checkbox"/>			
Russell	<input checked="" type="checkbox"/>			

Total

8 aye
0 nay
0 present, not voting
1 absent

CHAIRMAN

COMMITTEE COORDINATOR

By: Montford

Bill Analysis

Background Information

In the exercise of their diversity jurisdiction, federal district courts must sometimes interpret Texas state law. When a federal district court decides a matter of Texas law on which Texas courts have not yet ruled, the federal court must make an "Erie prediction", in which it rules on the basis of the way it believes Texas state courts will decide when the matter is presented to them. Such rulings have no precedential affect, and the issue is truly resolved only when a Texas court rules on the matter. Federal appellate courts have appellate jurisdiction over federal district courts, including federal district courts sitting in diversity jurisdiction.

In state law matters on which Texas courts have not ruled, a federal court cannot ask a Texas court to decide the Texas law question and then report the decision back to the federal court. That is because the Texas Supreme Court has determined that under the Texas Constitution judicial power does not embrace giving advisory opinions. Thus in Texas, as in most states, a state law question can be decided by the state courts only if resolution of the controversy originates in the state courts.

Purpose

C.S.S.J.R. 10 proposes a state constitutional amendment granting the Texas Supreme Court and the Court of Criminal Appeals jurisdiction to answer questions of Texas law certified from federal appellate courts.

Section-by-Section Analysis

SECTION 1. Amends Article V of the Texas Constitution by adding Section 3-c, which grants the Supreme Court and the Court of Criminal Appeals jurisdiction to answer questions of state law certified from a federal appellate court, and authority to promulgate procedural rules to review such questions.

SECTION 2. Adds a temporary provision to the Texas Constitution. The temporary provision takes effect upon the adoption of the amendment by the voters, and provides that the amendment will take effect on January 1, 1986.

SECTION 3. Provides for submission for the proposed constitutional amendment to the voters on November 5, 1985.

Rulemaking Authority

This bill empowers the Texas Supreme Court and the Court of Criminal Appeals to promulgate rules of procedure relating to questions of state law certified from federal appellate courts.

Summary of Committee Action

Public notice was posted in accordance with Rule 4, Section 12 of the Rules of Procedure of the House of Representatives and a public hearing was held on March 19, 1985.

The following witnesses appeared to testify in favor of S.J.R. 10:

Judge Charles Clark of Jackson, Mississippi, representing the Fifth Circuit Court of Appeals; and

Judge Robert M. Campbell of Austin, representing the Supreme Court of Texas.

The Committee voted to refer S.J.R. 10 to the Subcommittee on Court Administration & Procedure for further consideration.

Pursuant to a formal meeting announcement made on the House Floor, the Subcommittee met on April 3, 1985, and voted to adopt a Committee Substitute for S.J.R. 10. The Subcommittee then voted to report the Committee Substitute to the full Committee with the recommendation that it do pass.

On April 9, 1985, the full Committee voted to adopt the Committee Substitute for S.J.R. 10. The Committee then voted to report S.J.R. 10, as substituted, favorably to the House with the recommendation that it do pass by a record vote of 8 ayes, no nays, and 1 absent.

Comparison of Original Bill to Substitute

The Substitute gives the Court of Criminal Appeals jurisdiction to answer questions of state law certified from federal appellate courts and to promulgate necessary rules.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 15, 1985

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: House Committee Substitute for
Senate Joint Resolution No. 10

Sir:

In response to your request for a Fiscal Note on House Committee Substitute for Senate Joint Resolution No. 10, as engrossed (proposing a constitutional amendment granting the supreme court jurisdiction to answer questions of state law certified from federal courts) this office has determined the following:

The resolution would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the resolution.

The cost of publication to the State of the resolution is \$48,100.

No fiscal implication to units of local government is anticipated.


Jim Oliver
Director

Source: Secretary of State; Office of Court Administration;
LBB Staff: JO, JH, DS

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 14, 1985

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: Senate Joint Resolution No. 10,
as engrossed
By: Montford


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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 4, 1985

Honorable Oscar H. Mauzy, Chairman
Committee on Jurisprudence
Senate Chamber
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By: Montford

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Jim Oliver
Director

Source: Secretary of State; Office of Court Administration;
LBB Staff: JO, JH, BL

ADOPTED

MAY 16 1985

Betty Murray
Chief Clerk
House of Representatives

S.J.R. No. 10

By: Montford

Substitute the following for S.J.R. No. 10

By: Toomey

C.S.S.J.R. No. 10

SENATE JOINT RESOLUTION

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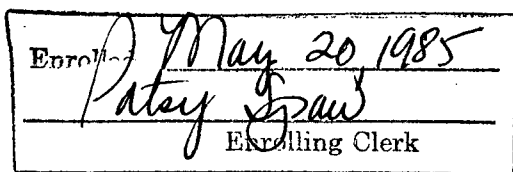
"(c) This temporary provision takes effect on the adoption of the amendment by the voters and expires January 2, 1986."

SECTION 3. This proposed constitutional amendment shall be^{1/2} submitted to the voters at an election to be held November 5, 1985. (cont. #)

House Sub.
5/20/85

1 The ballot shall be printed to provide for voting for or against the
2 proposition: "The constitutional amendment granting the Supreme Court
3 of Texas and the Court of Criminal Appeals of Texas jurisdiction to
4 answer questions of state law certified from a federal appellate court."

176 Bea



S.J.R. No. 10

SENATE JOINT RESOLUTION

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5 jurisdiction to answer questions of state law certified from a
6 federal appellate court."

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 10 was adopted by the Senate on February 18, 1985, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 20, 1985, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 10 was adopted by the House, with amendment, on May 16, 1985, by the following vote: Yeas 141, Nays 0, one present not voting.

Chief Clerk of the House

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 15, 1985

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Committee on Judiciary
House of Representatives
Austin, Texas

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LEGISLATIVE BUDGET BOARD

Austin, Texas

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LEGISLATIVE BUDGET BOARD

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FISCAL NOTE

February 4, 1985

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Jim Oliver
Director

Source: Secretary of State; Office of Court Administration;
LBB Staff: JO, JH, BL

S.J.R. No. 10_____
President of the Senate_____
Speaker of the House

I hereby certify that S.J.R. No. 10 (1) was ~~passed~~ ^{adopted} by the Senate on February 18 (2), 1985, by the following vote: Yeas 30 (3), Nays 0 (4); and that the Senate concurred in House amendment on May 20, 1985, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 10 (1) was ~~passed~~ ^{adopted} by the House ^{, with amendment,} on May 14 (5), 1985, by the following vote: Yeas 141 (6), Nays 0 (7), one present not voting.

Chief Clerk of the House

Approved:

Date_____
Governor

SENATE JOINT RESOLUTION

proposing a constitutional amendment granting the supreme court jurisdiction to answer questions of state law certified from federal courts.

1-22-85 Filed with the Secretary of the Senate

JAN 23 1985 Read, referred to Committee on JURISPRUDENCE

Reported favorably.

FEB 6 1985 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

FEB 18 1985 Senate and Constitutional Rules to permit consideration suspended by unanimous consent years, days.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of years, days.

FEB 18 1985 Read second time and { ordered engrossed.
~~passed to third reading.~~

Caption ordered amended to conform to body of bill.

FEB 18 1985 Senate and Constitutional 3-Day Rules suspended by vote of 29 years, 1 days to place bill on third reading and final passage.

FEB 18 1985 Read third time and passed by { a viva-voce vote.
30 years, 0 days.

OTHER ACTION:

Betty King
Secretary of the Senate

Feb. 18, 1985 Engrossed
Feb. 19, 1985 Sent to HOUSE

Patsy Span
ENGROSSING CLERK

FEB 19 1985 Received from Senate
FEB 27 1985 Read, referred to committee on Judiciary

4-9-85 as a substitute, no amended
4:30pm
APR 15 1985

APR 16 1985 Printed & Distributed 12:31pm
APR 16 1985 Sent to Committee on Calendars 2:57pm

MAY 16 1985 Read second time as substituted
adopted by record vote of 141 yeas 0 nays
1pm ✓

MAY 16 1985 Unanimous consent granted to amend caption of Senate Bill No. 3210 to conform to body of bill.

MAY 17 1985 RETURNED TO SENATE

MAY 17 1985 RETURNED FROM HOUSE
with amendment
Senate concurred in House amendments by the following vote: 31
MAY 20 1985 yeas, 0 nays.

Betty Murray
Chief Clerk of the House

5 APR 16 PM 12

PRESENT

✓

✓